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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

LEE, CALVIN

ART UNIT PAPER NUMBER

2825

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/471,460

Applicant(s)

FIGURA ET AL.

Examiner

Lee Calvin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 27 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 45 and 46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Opening Comments

After a closer review of the prior art cited and after considering the comments forwarded by the applicant in the Appeal Brief, the examiner has found the applicant's arguments on the art to be persuasive. However, the examiner has found a new piece of art which would read on the applicant's claims, Havemann et al.. The rejections based upon this new reference are new grounds of rejection and this action does not constitute a final rejection of the claims.

Additionally, the examiner did not find the applicant's arguments persuasive as to the rejections based upon 35 U.S.C. 112, 2nd paragraph. The applicant states in the Brief of January 2, 20003 that claims 45 and 46 pertain to the disclosure outlined in Figures 1-4 and not the third embodiment found in Figures 7-8. However, nowhere in the discussion of Figures 1-4 does the applicant disclose that the etching and deposition occur "generally simultaneously". This phrase is only used in the embodiment the applicant expressly stated in the Brief was not being claimed. For this reason, the claim rejections grounded in 35 U.S.C. 112 are maintained. Further as to the reading of "generally simultaneously" the examiner reads this as disclosed in applicant's disclosure with respect to Figures 1-4 where the material is deposited then etched in the same area where it was deposited in that order.

Rejections Not Based Upon the Prior Art

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 45 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As indicated above, the applicant's comments and embodiments have created an indefiniteness in the claims as it is unclear what is meant by "generally simultaneously". This terminology is only used with respect to the embodiment highlighted in Figures 7-8 and not Figures 1-4. Furthermore, the applicant has indicated that the embodiment of Figs. 7-8 is not being claimed but the embodiment of Figures 1-4 are being claimed. Therefore, the prior art rejections below only reflect what the deposition and etching sequences highlighted in the specification with respect to the embodiment outlined in Figures 1-4.

Prior Art Rejections

Statutory Basis

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The Rejections

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Claims 45-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Havemann et al.(US 6,278,174).

Havemann teaches the deposition of a polymer 432 between metal features 414,416,418, 420 which lie on a substrate 402. After deposition, the polymer layer is etched down as shown in Figure 4b. As this is read as the manner of "generally simultaneously" as described in the applicant's specification with respect to Figures 1-4, the claims do indeed anticipate the subject matter claimed by the applicant.


Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Calvin Lee whose telephone number is 703-306-5854. The examiner can normally be reached on Monday-Thursdays 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Smith can be reached on 703-308-1323. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0596.

Calvin Lee
Examiner
Art Unit 2825


MATTHEW SMITH
SUPERVISORY PATENT EXAMINER
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